

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

1] DENVER COOK

Plaintiff,

v.

1] COMMERCE AND INDUSTRY
INSURANCE COMPANY

Defendant.

Case No. CIV-12-64-M

Judge Miles-LaGrange

State Case No. CJ-2011-7635
District Court of Oklahoma
County

NOTICE OF REMOVAL

TAKE NOTICE that Defendant, Commerce and Industry Insurance Company, hereby removes this action pursuant to 28 U.S.C. §§ 1332, 1441, 1446(a) and 1446(b), from the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma on the basis of diversity jurisdiction. As grounds for removal, Defendant would show the Court as follows:

1. On October 24, 2011, Plaintiff filed a Petition in the District Court in and for Oklahoma County, Oklahoma, captioned *Denver Cook v. Commerce and Industry Insurance Company*, Case No. CJ-2011-7635 (the “state court action”).

2. The Court Clerk issued a Summons to Defendants on October 24, 2011. It is uncontested that a copy of the Petition was never served to Defendant. True and correct copies of the Docket Sheet and documents filed by Plaintiff in the state court action are attached hereto as Exhibit 1 and Exhibit 2.

3. In Plaintiff's Petition, Plaintiff alleges he sustained injuries in a one vehicle accident resulting from Defendant's (Plaintiff's employer) negligent maintenance of the vehicle.

4. In Plaintiff's Petition, Plaintiff states the "amount in controversy exceeds \$75,000 exclusive of interest and costs."

5. Plaintiff is a resident of Kiowa County, Oklahoma. Thus, Plaintiff is a citizen of the State of Oklahoma.

6. Defendant, Commerce and Industry Insurance Company is a foreign insurance corporation with its principal place of business in a state other than Oklahoma.

7. As illustrated by the foregoing facts, this is an action involving an amount in controversy exceeding \$75,000 and involving parties with diversity of citizenship. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332. Therefore, removal is proper pursuant to 28 U.S.C. § 1441(a).

8. This Notice of Removal is filed within thirty (30) days after receipt by Defendants of the Petition and Summons, and is therefore timely filed pursuant to 28 U.S.C. §1446(b).

9. Written notice of the filing of this Notice of Removal will be given to all parties, and a copy will be filed with the Clerk of the District Court of Oklahoma County, Oklahoma as provided by 28 U.S.C. §1446(d).

10. A certified copy of the docket sheet as well as copies of all the documents filed in this case in the District Court of Oklahoma County and all process, pleadings, and orders filed by Plaintiff are attached to this Notice of Removal in accordance with 28 U.S.C. § 1446(a), see attached Exhibits 1 and 2.

WHEREFORE, Defendant removes this action to this Court and invokes this Court's jurisdiction.

Dated: January 19, 2012.

Respectfully submitted,

HOLDEN & CARR

s/ Michael L. Carr

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CERTIFICATE OF MAILING

I hereby certify that on this 19th day of January 2012, a true and correct copy of the above and foregoing instrument was served on the parties as follows:

☒ Via U.S. Mail

☐ Via Facsimile Mail

☐ Via Federal Express

☐ Via Hand Delivery

Pursuant to 28 U.S.C. § 1446(d), I hereby further certify that on the 19th day of January, 2012, a true and correct copy of the above and foregoing Notice of Removal was mailed first class, U.S. mail, proper postage prepaid thereon to the Court Clerk for the District Court for Oklahoma County, Oklahoma.

s/ Michael L. Carr

Michael L. Carr